IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C).No. 25440 of 2005(C)

AGAINST THE ORDER DATED 10-8-2005 IN IA 1261 & 1262/2005 IN OS.381/1998 of ADDL.SUB COURT,PARAVUR

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PETITIONER:

P.K.MOHANDAS, S/O.P.K.AYYAPPAN,
AGED 39 YEARS, PARAYAKKATTU HOUSE,
ELOOR VILLAGE, PARAVOOR TALUK.

BY ADV. SRI.M.V.ANANDAN
SRI.A.J.FRANCIS NIXON

RESPONDENTS:

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1. KERALA SAMBAVAN SOCIETY,
REPRESENTED BY ITS GENERAL SECRETARY,
PANTHALAM BHARATHAN, THADATHIL HOUSE,
MUDIYOORKONAM P.O., PANTHALAM-689 516.

2. KERALA SAMBAVAN SOCIETY,
REPRESENTED BY ITS SECRETARY,
PARAVOOR TALUK COMMITTEE, 5/80, ALANGAD P.O.

3. KERALA SAMBAVAN SOCIETY,
REPRESENTED BY ITS PRESIDENT, PARAVOOR TALUK
COMMITTEE, ALANGAD P.O.

4. KERALA SAMBAVAN SOCIETY,
REPRESENTED BY ITS PRESIDENT,
ELOOR SAKHA, ER 312/79, ELOOR P.O.

5. KERALA SAMBAVAN SOCIETY,
REPRESENTED BY ITS SECRETARY,
PARAVOOR TALUK COMMITTEE, 5/80, ALANGAD P.O.

BY ADV. SRI.M.S.UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PETITIONER'S EXHIBITS

Ext.P1: A true copy of the plaint in O.S. 382/1998 of the Addl.Sub-Court , North Paravur

Ext.P2: A true copy of the relevant pages of the Byelaws

Ext.P3: A true copy of the I.A. No. 1261/2005 of the Hon'ble Sub-Court North Paravur

Ext.P3(a) : A true copy of the I.A No. 1262/2005 of the Hon'ble Sub court North Paravur

Ext.P4: A true copy of the order in O.S. 381/1998 of the Addl. Sub Judge,Nolrth Paravur

//True copy/

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PIUS.C.KURIAKOSE. J.

W.P.(C) No.25440 of 2005

Dated this the 4th day of June 2007

JUDGMENT

The adjournments sought on behalf of the petitioner on the ground that the learned counsel for the petitioner laid up due to fever. I find that on 1-6-2007 there is no representation for the petitioner and at that time the learned counsel for the respondent is present. Today I have heard the learned counsel for the respondent Mr. M.S. Unnikrishnan who submits that there is no warrant at all for setting aside Ext.P4 order under the visitorial jurisdiction under Article 227 The suit is one for damages and one of the issue is raised is about the period of limitation. Both sides argued the case and thereby even submitted written arguments. It is thereafter that the plaintiff filed interlocutory applications for impleading additional defendant in the suit and for consequential amendments. Even if the amendment is allowed, the reliefs sought for against the additional respondents will be barred by limitation, since the suit is barred by limitation and even again the defendant was already in the arrayed parties. Having considered the above submissions and also having gone through Ext.P4 which is a reasoned order wherein the learned Sub judge the learned Sub judge has relied on the judgment of Supreme Court in ..... A.I.R. 1996 S.C. 2358 under the visitorial jurisidiction of this Court under Article 226 I dismiss the writ petition,

however making it clear that if the decree in the suit comes to be against the petitioner the confirmation of Ext.P4 judgment will not stand in the way of petitioner urging his grounds against Ext.P4 which also is a ground in the prospective appeal.

PIUS.C.KURIAKOSE,JUDGE

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